

Sunset Public Hearing Questions for
Board of Veterinary Medical Examiners
Created by Section 63-12-104, *Tennessee Code Annotated*
(Sunset Termination June 2021)

Enabling Statute, Purpose, and Rules and Regulations

1. Please provide a brief introduction to the board including information about its purpose, statutory duties, staff, and administrative attachment.

The Board of Veterinary Medical Examiners was created in 1905 by an act of the State Legislature. Its mission is to safeguard the health, safety, and welfare of Tennesseans by ensuring that all who practice as a veterinarian, veterinary medical technician, or euthanasia technician within this state are qualified. Effective January 1, 1997, veterinary facilities are required to obtain a premise permit. The Board interprets the laws, rules, and regulations to determine the appropriate standards of practice and assures the highest degree of professional conduct. The Board is responsible for the investigation of alleged violations of law and rules, and disciplines licensees, facility owners, and facilities that are found guilty. The Board may grant licensure by either examination or endorsement from other states.

The administrative staff of the Division of Health Related Boards supports the Board by issuing licenses to those who meet the requirements of the law and rules. Renewal notices are mailed from Board's administrative office approximately sixty (60) days prior to the expiration of the license to the current address on record. For those licensees who have opted in for electronic notification, an email will be sent to the email address on file approximately seventy (70) days prior to the expiration date of the license. Licenses can be renewed on-line seventy (70) days prior to expiration. Failure to renew by the expiration date may result in a fine.

As a response to the difficulties encountered by licensees as a result of COVID-19, the Governor issued an Executive Order in March 2020 extending license renewal dates. As a result of the Executive Order, the Board extended the renewal date from sixty (60) days to one hundred (100) days. Upon expiration of the Executive Order in August 2020, the renewal notices dates returned to sixty (60) days for regular mail and seventy (70) for email notification.

The Board is statutorily required to meet at least once per year but convenes three (3) times a year. A quorum of four (4) members is required to conduct business. All members of the Board are appointed by the Governor and serve five (5) year terms. The Board consists of five (5) licensed veterinarians, one (1) licensed veterinary technician and one (1) member who is a health care consumer. The State Veterinarian serves as an Ex-Officio non-voting member.

2. Has the board promulgated rules and regulations? If yes, please cite the reference(s).

Yes, since the Board's inception, there have been rules promulgated as authorized by statute (Rule Chapters 1730-01, 1730-02, 1730-03, 1730-04, 1730-05, and 1730-06). The rules were most recently amended in August 2014.

Board Organization

3. Provide a list of current board members and explain how membership complies with Section 63-12-104, Tennessee Code Annotated.

Name	Profession	Role	Term Starts	Term Ends	Consecutive	Demographics
Stephen Galloway	Veterinarian	Chair	10/24/2017	07/31/2022	No	Under 60 years, Non-Minority, Male, West TN
Montgomery McInturff	Veterinarian	Member		07/31/2025	No	Under 60 years, Non-Minority, Male, Middle TN
Nathan Loxley	Veterinarian	Member	10/24/2017	07/31/2022	No	60+ years, Non-Minority, Male, Middle TN
Robert Simpson	Veterinarian	Vice Chair	08/01/2016	07/31/2021	No	Under 60 years, Non-Minority, Male, East TN
Elizabeth Thompson	Veterinarian	Member	08/01/2015	07/31/2020	Yes	Under 60 years, Non-Minority, Female, East TN
Leslie Wereszczak	Veterinary Technician	Secretary	10/17/2017	07/31/2022	No	Under 60 years, Non-Minority, Female, East TN
Vacant	Consumer Member					
Samantha Beaty	Veterinarian	Non-voting member	N/A	N/A	N/A	Dept. of Agriculture

- 4. Are there any vacancies on the board? If so, please indicate how long the position has been vacant and explain steps that have been taken to fill any vacancies.**

There is one (1) vacancy. The Consumer Member position has been vacant since 07/31/2019. Steps taken to fill the vacancy have been to make notice to the Governor's Office of the vacancy as the Governor is the appointing authority.

- 5. How many times did the board meet in each of the last two fiscal years?**

The Board met three (3) times in Fiscal Year 2019. The Board met three (3) times in Fiscal Year 2020.

- 6. How many members were present at each meeting? Please note meetings where the board did not have a quorum.**

Fiscal Year 2019		
Date	# Board Members	Quorum
08/02/2018	5	Yes
12/05/2018	6	Yes
04/10/2019	8	Yes

Fiscal Year 2020		
Date	# Board Members	Quorum
08/07/2019	5	Yes
12/11/2019	6	Yes
06/10/2020	7	Yes

The Board was scheduled to meet on April 8, 2020, however due to the COVID-19 pandemic, the Board rescheduled and instead conducted a teleconference meeting via the WebEx virtual meeting platform on June 10, 2020.

Financial Information

- 7. What were the board's revenues and expenditures for the last two fiscal years? Does the board carry a reserve balance? If so, please provide additional relevant information regarding the reserve balance, including whether the board is self-sufficient.**

For fiscal year 2019, the Board had revenues of \$709,561.96 and total expenditures of \$507,209.63, with a reserve balance of \$1,000,080.54

For fiscal year 2020, the Board had revenues of \$742,254.29 and total expenditures of \$531,260.89, with a reserve balance of \$1,171,445.50.

The Board is self-sufficient.

8. What per diem or travel reimbursements do board members receive? How much was paid to individual board members in the last two fiscal years?

Board members are paid one hundred dollars (\$100.00) per diem. Travel reimbursements are paid according to the Department of Finance and Administration's Comprehensive Travel Regulations.

The per diem and travel amounts for each Board member listed below represents the amounts paid during July 1st – June 30th of each fiscal year.

Member Name	FY19- Per Diem Total	FY19-Travel Reimbursement Total	FY20-Per Diem Total	FY20-Travel Reimbursement Total
Stephen Galloway	\$300	\$1,599.74	\$300	\$323.36
Montgomery McInturff	\$0	\$0	\$100	\$0
Nathan Loxley	\$200	\$90.24	\$300	\$90.24
Robert Simpson	\$600	\$1,300.35	\$800	\$4,679.60
Elizabeth Thompson	\$300	\$1,232.25	\$500	\$1,509.03
Leslie Wereszczak	\$0	\$306.44	\$0	\$459.66
Stephen Ladd (Term Expired 7/31/2019)	\$200	\$33.84	\$200	\$33.84
Beverly Strong (Term Expired 7/31/2019)	\$100	\$0	\$0	\$0

9. Does the board collect fees? If so, provide relevant information about fees collected. Indicate whether these fees were established through rule or through state law.

The Board has established rules with the authority granted to them through statute to collect fees. The following fees are collected:

Fee Category - Veterinarians	Fee Amount	Rule or Statute
Application	\$125	Rule
Endorsement/Verification	\$20	Rule
Late Renewal	\$80	Rule
Renewal (Biennial)	\$360	Rule
Reciprocity License Fee	\$150	Rule
Replacement License or Renewal Certificate	\$25	Rule
State Regulatory Fee (Biennial)	\$10	Rule
Temporary License	\$25	Rule

Fee Category - Veterinary Technicians	Fee Amount	Rule or Statute
Application	\$75	Rule
Endorsement/Verification	\$20	Rule
Late Renewal	\$80	Rule
Renewal (Biennial)	\$90	Rule
Reciprocity License Fee	\$80	Rule
Replacement License or Renewal Certificate Fee	\$25	Rule
State Regulatory Fee (Biennial)	\$10	Rule

Fee Category - Certified Animal Euthanasia Technicians	Fee Amount	Rule or Statute
Application	\$50	Rule
Endorsement/Verification	\$20	Rule
Late Renewal	\$25	Rule
Renewal (Biennial)	\$100	Rule
Replacement Certificate Fee	\$25	Rule
State Regulatory Fee (Biennial)	\$10	Rule

Fee Category - Veterinary Facilities	Fee Amount	Rule or Statute
Premises Application	\$25	Rule
Initial Inspection/Biennial Inspection	\$200	Rule
Premises Permit	\$360	Rule
State Regulatory Fee (Biennial)	\$10	Rule
Premises Permit Renewal (Biennial)	\$160	Rule
Late Renewal	\$80	Rule
Re-inspection Fee (follow-up)	\$150	Rule

Fee Category - Animal Control Agencies	Fee Amount	Rule or Statute
Application	\$50	Rule
Endorsement/Verification	\$20	Rule
Late Renewal	\$80	Rule
Renewal (Biennial)	\$160	Rule
State Regulatory Fee (Biennial)	\$10	Rule
Inspection Fee/ Biennial Inspection	\$200	Rule
Re-inspection Fee (Follow up)	\$150	Rule

Fee Category - Chemical Capture	Fee Amount	Rule or Statute
Application Fee	\$50	Rule
Endorsement/Verification Fee	\$20	Rule
Initial Certification Fee (Technician)	\$100	Rule
Renewal Fee (Technician)	\$100	Rule
Initial Certification Fee (Agency)	\$200	Rule
Renewal Fee (Agency)	\$200	Rule
State Regulatory Fee	\$10	Rule
Course Approval Fee	\$20	Rule
Replacement Certificate Fee	\$25	Rule
Late Renewal Fee	\$80	Rule

Sunshine Law, Public Meetings, and Conflict of Interest Policies

- 10. Is the board subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of meetings and making minutes available to the public?**

The Board is subject to the sunshine law requirements of Tenn. Code Ann. 8-44-101. A public meeting notice is posted to the Board's web site by the 15th day of the month proceeding the month of the meeting date and is also posted on the Public Participation Calendar. The Board's administrative staff attends all meetings and takes minutes. Those minutes are then prepared for review and ratification by the Board at its next regularly scheduled meeting. After the minutes are ratified by the Board, they are placed on the Board's website.

- 11. Does the board allow public comment at meetings? Is prior notice required for public comments? If public comment is not allowed, how does the board obtain feedback from the public and those they regulate?**

Board meetings are conducted in full view of the public pursuant to a sunshine notice which provides information for the location of the meeting – whether the meeting is held in person or via remote/teleconference means - a link to remotely view live-streaming of the meeting, and notice of agenda items. The meeting is guided by this published agenda. The chair of the Board will recognize members of the public who request to be heard on a matter properly noticed before the Board.

Additionally, the Board has instituted a sign-in sheet procedure that permits members of the public to make comments on matters properly noticed and before the Board for consideration. The public may also make comments on matters not noticed before the Board however those comments will not result in action being taken by the Board until

properly noticed. Discussion of matters not receiving proper notice would violate the sunshine laws of Tennessee. Members of the public can review the published agenda to see what matters are before the Board. Members of the public may also request to have a topic or comment that requires discussion, submitted to the board administrator or director in advance of the meeting in order to have the matter placed on agenda for review by the Board.

An announcement is made at each meeting to provide instructions to members of the public wishing to be heard by the Board of the sign-in sheet and time is specifically allotted on the agenda for those individuals to make their comments. In the event a meeting is held via remote/teleconference methods, announcements are made providing instructions as to how a member of the public may request to comment via the virtual system and opportunities for comments are provided at various times throughout the meeting to ensure the member is addressed by the Board. A video recording of the meeting is placed on the Board's website within 24-48 hours of the meeting and is also available on the Department's web site for approximately one month following the meeting. An audio recording of the meeting is also available upon request.

12. Does the board have policies to address potential conflict of interest by board members, employees, or other state employees who work with the board?

Yes. All board members are educated on the Department of Health's Conflict of Interest Policy and reminded during each meeting of the obligation to strictly adhere to the policy. Board members are required to sign a conflict of interest statement upon appointment and annually thereafter. It is the responsibility of the Board Administrator to ensure that the conflict of interest statement is properly and timely signed. The Board's administrative office keeps signed copies of the conflict of interest statement on file in the Health Related Board's Office

Licensure and Oversight Responsibilities

13. How many total licensees has the board had in each of the last two fiscal years?

Profession:	FY 2019	FY 2020
Veterinarians	2,454	2,679
Veterinary Technicians	865	999
Animal Euthanasia Technicians	257	322
Veterinary Facilities	783	860
Animal Control Agencies	65	66
Chemical Capture	1	1

- 14. How many new applications for licenses has the board received in each of the last two fiscal years? If necessary, please differentiate by type or category.**

Profession:	FY 2019 Applications	FY 2020 Applications
Veterinarians	294	301
Veterinary Technicians	139	150
Animal Euthanasia Technicians	67	67
Veterinary Facilities	80	99
Animal Control Agencies	1	1
Chemical Capture	0	0

- 15. How many license applications did the board deny during each of the last two fiscal years? What were the reasons for denial?**

FY 2019 – The Board denied 2 applications. The Board denied a Veterinary Technician license due to discipline with controlled substances on their nursing license in another state. The Board denied an Animal Euthanasia Technician Certification due to an indication on their criminal background check and failure to appear before the Board for an applicant interview.

FY2020 – The Board denied 1 application. The Board denied a Veterinary Technician license due to failure to sign a peer assistance monitoring agreement with the Tennessee Medical Foundation. This monitoring agreement was requested by the Board after the review of the criminal conviction for a DUI.

- 16. What were the total number of complaints received by the board in each of the last two fiscal years? If available, please differentiate between consumer complaints and administrative complaints.**

In FY2019, 76 new complaints were opened. 18 were administrative complaints.

In FY 2020, 64 new complaints were opened. 22 were administrative complaints.

- 17. Describe the process by which the board receives, handles, and tracks complaints. For example, are complaints rated by level of seriousness or other priority-handling method? Is a complaint log kept? What benchmarks have been established for timely resolution of complaints?**

The Board receives complaints through the Office of Investigations. The Office of Investigations maintains a website with instructions of how to file a complaint. This website allows the public to provide complaints electronically, by phone, mail or fax. All complaints are entered into a database system upon receipt and are assigned to the Board's complaint coordinator. Each complaint is reviewed by the board consultant and the board attorney to determine if the allegation constitutes a violation of the Board's Practice Act and rules.

If it is determined that the allegation would constitute a violation of the Practice Act or rules, the board consultant and board attorney will request that the allegation be

investigated by a trained investigator with the Department of Health. Complaints that involve the potential for immediate jeopardy to the public are prioritized and assigned a 7 day benchmark for completion. Other cases are assigned 30, 60, 90 or 120 day benchmarks based on the severity of the allegations and potential risk of harm to the public. Complaints are completed within the assigned benchmark when possible however 30 day extensions are granted in instances when additional time is needed to complete a thorough investigation due to issues such as witness availability and receipt of medical records from a third party.

Once investigated, the investigative report and all evidence obtained are provided to the board consultant and board attorney where they review it together to determine if there is evidence to support the violation alleged by the complainant. If so, the board consultant and board attorney discuss the appropriate level of discipline that is proportionate to the violation and the licensee is provided with an opportunity to agree to that discipline. The licensee also has the right to reject the Board's proposed discipline and request a formal contested case hearing before the Board.

Not all complaints are assigned for investigation. In instances where the board consultant and board attorney find that the complaint does not violate the Practice Act and investigation is not necessary, the file is closed, and the complainant is notified in writing. Complaints that fall outside the jurisdiction of the Office of Investigations are forwarded as appropriate.

18. Please describe how the board takes disciplinary action against practitioners who are found to have violated statutes and/or the board's rules and regulations.

If the board consultant and board attorney determine that the investigative report and evidence substantiate that a licensee has committed a violation of the Practice Act and/or rules that rises to the level of public discipline, the case will be transferred to the Office of General Counsel for prosecution.

Formal discipline of a licensee can consist of a reprimand, probation, suspension, voluntary surrender, revocation and summary suspension. The licensee can also be assessed civil penalties that range from \$50.00 - \$1,000.00 per violation; required to complete continuing education hours in addition to those required to maintain licensure and assessed the costs for the investigation and presentation of the matter.

There are several procedural avenues by which disciplinary matters may come before the Board:

Consent Orders - Presents the licensee an opportunity to resolve the matter by agreement, making formal proceedings unnecessary. By signing the Consent Order, the licensee waives the right to a contested case hearing and any and all rights to judicial review in the matter and agrees to the presentation and consideration of the Consent Order by the Board for ratification at the scheduled public meeting. After the Board approves the public disciplinary action, the Office of General Counsel sends a copy of the order to the Disciplinary Coordinator. The Disciplinary Coordinator changes the licensure status in

the LARS database as appropriate, posts the disciplinary action on the public website for the Health Related Boards, and reports the disciplinary action to the National Practitioner Databank. The Disciplinary Coordinator also monitors the case as appropriate to assure that the Respondent complies with the terms of the order and reports the action on the monthly disciplinary action report. Should the Board fail to ratify the Consent Order, formal disciplinary proceedings will be initiated, and the licensee is notified of such.

Agreed Orders- When a licensee has requested a formal disciplinary hearing in lieu of settling the matter by Consent Order and then requests to settle the matter prior to the formal proceeding taking place, an Agreed Order allows the licensee to waive the right to a contested case hearing and any and all rights to judicial review in the matter. The Agreed Order is presented to the Board for ratification at the scheduled public meeting. After the Board approves public disciplinary action, the Office of General Counsel sends a copy of the order to the Disciplinary Coordinator. The Disciplinary Coordinator changes the licensure status in the LARS database as appropriate, posts the disciplinary action on the public website for the Health Related Boards, and reports the disciplinary action to the National Practitioner Databank. The Disciplinary Coordinator also monitors the case as appropriate to assure that the Respondent complies with the terms of the order and reports the action on the monthly disciplinary action report. Should the Board fail to ratify the Agreed Order, formal disciplinary proceedings will be initiated, and the licensee is notified of such.

Contested Cases – Formal disciplinary hearings in which Board sits as jury. An Administrative Law Judge presides and makes evidentiary rulings and instructs the Board as to procedure. Board members may question witnesses. The licensee, known as the “Respondent,” is prosecuted by a litigating attorney from the Office of General Counsel who represents the State, just as a prosecutor in a criminal court represents the State. A licensee always has the right to legal counsel.

19. How many licenses did the board revoke or suspend during each of the last two fiscal years? What were the reasons for the revocations or suspensions?

FY2019 – The Board revoked one veterinarian license during this fiscal year – this individual had their license revoked for retaliating against a former associate and her business in forms of violence, threats and extortion; they had also been disciplined by the Board for various reasons on four other occasions.

FY2020 – The Board did not revoke or suspend any licenses during this fiscal year. There was one license that was voluntarily surrendered due to gross malpractice, which the licensee had been disciplined for by the Board on previous occasions.

20. Does the board maintain reciprocal agreements with other states to recognize Veterinarians, Veterinary Technicians, Animal Euthanasia Technicians and Chemical Capture Technicians who are licensed under the laws of other states such that these individuals may practice in Tennessee?

The Board does not maintain reciprocal agreements with other states, however, if an applicant holds an unrestricted license in another state and has completed the required education and examination per Tennessee's statutes, a license may be issued upon completion of application.

Reports, Major Accomplishments, and Proposed Legislative Changes

21. What reports does the board prepare concerning its activities, operations, and accomplishments? Who receives copies of these reports? Please provide a link to any such reports issued in the last two fiscal years.

The Board reports licensure, legislative and general practice updates on its web page. The Board also reports its disciplinary actions to the Department of Health for inclusion on the Monthly Disciplinary Action Report. The Board also provides notice of its disciplinary action to the American Association of Veterinary State Boards, which makes the information available to all member jurisdictions. The Disciplinary Action Report can be found at: <https://www.tn.gov/health/health-professionals/health-professionals-boards-disciplinary-actions.html>.

22. What were the board's major accomplishments during the last two fiscal years?

It was brought to the attention of the Veterinary Board that the title of "Veterinary Medical Technician" was being applied erroneously to unlicensed individuals in the state. This title is protected under both rule and statute and carries with it an expectation that certain levels of education and other qualifications have been met. In an effort to continue its mission of safeguarding the health, safety, and welfare of Tennesseans, the Board issued a courtesy notice to all permitted veterinary facilities, licensed veterinarians, and licensed veterinary medical technicians of the importance of only applying the Veterinary Medical Technician title to properly licensed individuals, thus, maintaining the integrity of the title for the public as they make decisions on where to obtain animal healthcare services.

The Veterinary Board has increased their efforts in the area of Student Outreach to make the licensure process easier for new graduates. The Board's Administrative Director and Manager conduct informational sessions with schools of veterinary medicine and veterinary technology to provide detailed instructions on the licensure process and to answer any licensing questions the students may have as they prepare to graduate and apply for their license.

To assist with efficiencies for applicants during the licensure process, the Board instituted a policy to accept source documents that are obtained and collected by the American

Association of Veterinary State Boards (AAVSB) on behalf of licensees and applicants in the form of a credential packet transferred directly to the Board from the AAVSB.

The Veterinary Board has a representative seat on the Controlled Substance Monitoring Database Program (CSMD), and a Veterinary Board Member was elected as Vice Chair of the CSMD Committee.

23. What, if any, challenges have the board faced in the last two fiscal years?

Fiscal year 2019 held no substantial challenges for the Board, however, fiscal year 2020 has made way for certain challenges for the Board, in light of the COVID-19 pandemic. These challenges and their resolutions have included:

- 1) Hesitancy and concern from board members over conducting board/committee meetings via an in-person format, due to their own personal high-risk status or travel/overnight stay concerns during the pandemic
 - a. Executive Order #16 and subsequent extensions, allowing for meetings to be held via remote teleconference means, has provided the resolution required for this challenge, thus far
- 2) Obtaining in-person continuing education hours as required for the maintenance of a license, due to live events being cancelled or converted to an online format
 - a. Executive Order #50 and the subsequent Commissioner's Policy regarding the audit of in-person continuing education for calendar year 2020 has provided the resolution required for this challenge, thus far
- 3) Access to testing centers for the purpose of taking required examinations
 - a. With testing centers working to expand testing windows to accommodate social distancing and extra cleaning measures it has reduced their seating capacity for the administration of exams; the testing centers, however, have worked to expand their days and hours of service to allow for greater access to testing, providing a resolution for this challenge, thus far. Board staff has continued to maintain open and consistent communication with testing agencies regarding testing updates.

24. Please describe any items related to the board that require legislative attention and your proposed legislative changes.

None at this time.

25. Should the board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, and welfare of the citizens of the state of Tennessee?

Yes, to promulgate rules and policies related to the practice of Veterinary Medicine. Without the presence of the Board, members of the public whose Veterinary Care is provided by Veterinarians, Veterinary Technicians, Animal Euthanasia Technicians, Veterinary Facilities, Animal Control Agencies, and Chemical Capture Technicians/Agencies would be uncertain that their healthcare provider is fully qualified to practice his or her profession and does so in a safe and ethical manner.

- 26. Please identify the appropriate agency representative or representatives possessing substantial knowledge and understanding of the responses provided to the sunset review questions.**

Brent Culberson, Assistant Commissioner, Health Licensure and Regulation
Jennifer Putnam, Deputy Director, Health Licensure and Regulation
Alicia Grice, Fiscal Director, Health Licensure and Regulation
Paul Richardson, Associate General Counsel
Kimberly Wallace, Board Director

- 27. Please identify the appropriate agency representative or representatives who will respond to the questions at the scheduled sunset hearing.**

Alexa Witcher, Assistant Commissioner of Legislative Affairs
Brent Culberson, Assistant Commissioner, Health Licensure and Regulation
Jennifer Putnam, Deputy Director, Health Licensure and Regulation
Alicia Grice, Fiscal Director, Health Licensure and Regulation
Paul Richardson, Associate General Counsel
Dr. Stephen Galloway, Board Chair

- 28. Please provide the office address, telephone number, and email address of the agency representative or representatives who will respond to the questions at the scheduled sunset hearing.**

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